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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 121004518-3398-01]

RIN 0648-XD723

Reef Fish Fishery of the Gulf of Mexico; 2015 Recreational Accountability Measures for Gray Triggerfish in the Gulf of Mexico; Reduced Annual Catch Limit and Annual Catch Target and Closure  
AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for recreational gray triggerfish in the Gulf of Mexico (Gulf) reef fish fishery for the 2015 fishing year through this temporary rule. Landings data indicate the 2014 recreational annual catch limit (ACL) was exceeded; thus, NMFS reduces the 2015 recreational ACL and annual catch target (ACT) for gray triggerfish and closes the recreational sector for gray triggerfish in the Gulf exclusive economic zone (EEZ). This action is necessary to reduce overfishing of the Gulf gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time, on February 7, 2015, until 12:01 a.m., local time, on January 1, 2016, unless NMFS

publishes a superseding document in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, NMFS Southeast Regional Office, telephone: 727-824-5305, e-mail: [rich.malinowski@noaa.gov](mailto:rich.malinowski@noaa.gov).

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf, which includes gray triggerfish, is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). All weights specified in this rule are round weight.

The final rule for Amendment 37 to the FMP (78 FR 27084, May 9, 2013) implemented the Gulf gray triggerfish recreational ACL of 241,200 lb (109,406 kg), and the recreational ACT of 217,100 lb (98,475 kg), as specified in 50 CFR 622.41(b)(2)(iii).

The final rule for Amendment 37 to the FMP also implemented an in-season AM to close the recreational sector when the ACT is reached or projected to be reached, as specified in 50 CFR 622.41(b)(2)(i), and implemented a post-season AM in the form of an ACL overage adjustment that would apply if the recreational ACL is exceeded and gray triggerfish are overfished, as specified in 50 CFR 622.41(b)(2)(ii). This post-season AM reduces the recreational ACL and ACT for the year following a recreational ACL overage by the amount

of the ACL overage in the prior fishing year, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary.

NMFS determined that the 2014 recreational landings were 212,751 lb (96,502 kg), which exceeded the 2014 adjusted recreational ACL by 186,993 lb (84,819 kg) and the 2014 adjusted recreational ACT by 211,093 lb (95,796 kg). Therefore, NMFS implements a post-season AM for recreational gray triggerfish in the Gulf for the 2015 fishing year through this temporary final rule. Based on the 2014 ACL overage, NMFS reduces the 2015 recreational ACL from 241,200 lb (109,406 kg) to 54,207 lb (24,588 kg) and the 2015 recreational ACT from 217,100 lb (98,475 kg), to 30,107 lb (13,656 kg).

Based on the adjusted 2015 recreational ACT of 30,107 lb (13,656 kg) for Gulf gray triggerfish and landings data from 2014, NMFS implements the in-season AM to close the recreational harvest of Gulf gray triggerfish at 12:01 a.m., local time, on February 7, 2015, until 12:01 a.m., local time on January 1, 2016, unless NMFS publishes a superseding document in the Federal Register.

During the closure, the bag and possession limits of gray triggerfish in or from the Gulf EEZ are zero. These bag and possession limits apply in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, i.e., in state

or Federal waters.

The recreational sector for gray triggerfish will reopen on January 1, 2016, the beginning of the 2016 recreational fishing season. The 2016 recreational ACL for gray triggerfish will return to 241,200 lb (109,406 kg), and the recreational ACT will return to 217,100 lb (98,475 kg), as specified in 50 CFR 622.41(b)(2)(iii), unless AMs are implemented due to a recreational ACL overage, or the Council takes regulatory action to adjust the recreational ACL and ACT.

#### Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf gray triggerfish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(b)(2) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth

in 5 U.S.C. 553 (b) (B) , because prior notice and opportunity for public comment on this temporary rule is unnecessary and contrary to the public interest. Such procedures are unnecessary because the recreational AMs established by Amendment 37 to the FMP (78 FR 27084, May 9, 2013) and located at 50 CFR 622.41(b) (2) have already been subject to notice and comment, and all that remains is to notify the public of the reduced ACL and ACT, and recreational closure for gray triggerfish for the remainder of the 2015 fishing year. They are contrary to the public interest because there is a need to immediately implement this action to protect the gray triggerfish resource, since the capacity of the recreational sector allows for rapid harvest of gray triggerfish. Prior notice and opportunity for public comment on this action would require time and would potentially result in the adjusted recreational ACL for gray triggerfish being exceeded, which, in turn, would reduce the recreational ACL and ACT for gray triggerfish in 2016.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: January 23, 2015

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Emily H. Menashes,  
Acting Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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